IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6768 OF 2006

Baburao Parsu Koli & Anr. ..Petitioners
Versus
State of Maharashtra & Ors. ..Respondents

Mr.R.K.Mendadkar for Petitioners
Mr. C.R.Sonawane, AGP for Respondents

CORAM : H. S. BEDI, C.J., &
V. M. KANADE, J.

DATE : 17TH OCTOBER, 2006

P.C.:

1. We have heard the learned Counsel for the parties and perused the pleadings.

2. We observe that Shri D.R. Chaudhari was, at the relevant time, holding a substantive post of law Officer and not that of Member Secretary of the Scrutiny Committee. As per Government Notification dated 4th June, 2006, Item No.4, when read along with Rule 9 of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of Certificate) Rules, 2003, the Member Secretary must be a Member of the Scrutiny Committee under all circumstances. It is clearly stated in the reply that Shri M.S. Deore, who

was a Member Secretary, was on Medical Leave with effect from 31st December, 2005 and, therefore, Shri D.R. Chaudhari, who was a Law Officer, was given the additional charge of Member Secretary while holding the post of Law Officer as well. We thus find that the Committee was not properly constituted. We therefore, quash the impugned Order at Exhibit "A" with liberty to the respondents to pass a fresh order in accordance with law as expeditiously as possible. Ipso facto, the admission granted to the Petitioners shall not be cancelled. We also direct that all consequential actions including the declaration of the result of the First Year Engineering Course Examination held in the month of May 2006 under Seat No.18053 will follow.

3. We also observe that no issue on the merits of the controversy has been raised by the learned Counsel for the parties and all issues are therefore kept open.

CHIEF JUSTICE

V. M. KANADE, J.